1	BRENDA ENTZMINGER Nevada Bar No. 9800				
2	PHILLIPS, SPALLAS & ANGSTADT LLC				
3	504 South Ninth Street Las Vegas, Nevada 89101				
4	(702) 938-1510				
5	Attorneys for Defendant Wal-Mart Stores, Inc.				
6					
7	UNITED STATES DISTRICT COURT				
8	DISTRICT OF NEVADA				
9	MELISSA STRAWDER-McCURRY,	Case No.:			
10	Plaintiff,	[District Court, Clark County Case No.			
11	V.	A-12-673600-C, Dept No. XVIII]			
12	WAL-MART STORES, INC.; DOES I through X, Inclusive,	DEFENDANT WAL-MART STORES, INC.'S PETITION FOR REMOVAL			
13	Defendants.	[JURY DEMAND]			
14	Detendants.	JURI DEMAND			
15	PETITION FOR REMOVAL OF CIVIL ACTION				
16	COME NOW, Petitioner WAL-MART STORES, INC., by and through its attorneys, the law				
17	offices of PHILLIPS, SPALLAS & ANGSTADT, LLC, hereby submits and respectfully shows:				
18					
19	I.				
20	Petitioner WAL-MART STORES, INC. ("WALMART" or "Petitioner") is a Defendant in the				
21	above-entitled action.				
22	II.				
23	The above-entitled action was commenced in the Eighth Judicial District Court in and for				
24	Clark County, District of Nevada, and is now pending in that Court. Process was served upon				
25					
26	Petitioner through a process server on or about March 21, 2013. Copies of Plaintiff's Summons and				
27	Complaint are attached hereto as Exhibit "A" and "Exhibit B," respectively.				
28	Plaintiff's Complaint asserts damages claims for: (1) past "pain, suffering, impairment,				

1	surgery, disability [] in excess of \$50,000" (Complaint, ¶12: 6-7), (2) damages for "severe and grave		
2	injuries to her body" (Complaint, ¶11:5), (3) future pain, suffering, impairment and disability		
3	(Complaint, ¶12:7-8), (4) past medical expenses (Complaint, ¶13), (5) future medical expenses		
4	(Complaint, ¶12:8-9), (6) past lost earnings (Complaint, ¶14:13-16), and (7) "a loss of earning		
5	capacity" (Complaint, ¶14:16). Plaintiff also seeks attorney's fees and costs. (Complaint, ¶15).		
6 7	Thus, Plaintiff seeks total damages claims satisfying the \$75,000 jurisdictional threshold		
8	established by 28 United States Code Section 1146(b).		
9	III.		
10	This Petition is filed timely pursuant to 28 United States Code Section 1446(b).		
11	IV.		
12	This action is a civil action over which this Court has jurisdiction pursuant to 28 United States		
13			
14	Code Section 1332(a), and is one which may be removed to this Court by Petitioner, pursuant to 28		
15	United States Code Section 1441(a).		
16	V.		
17	Petitioner is informed, believes, and thereon alleges that Plaintiff Melissa Strawder-McCurry		
18	is, and was at all times relevant herein, a citizen of the State of Nevada.		
19	VI.		
20   21	Petitioner WAL-MART STORES, INC. is, and was at the time this action was commenced, an		
22	Arkansas corporation with its principal place of business in the State of Arkansas.		
23	VII.		
24	The above-entitled civil action is for personal and economic damages Plaintiff allegedly		
25	incurred as a result of an incident at a Walmart Store in Las Vegas, Nevada, on December 17, 2010.		
26			
27	VIII.		
28	A copy of Defendant's Petition For Removal, seeking removal of the above-entitled action to		

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the United States District Court, District of Nevada, together with a copy of the Summons and Complaint, has been filed with a Notice Of Removal To Federal Court with the Eighth Judicial District Court in and for Clark County, Nevada.

IX.

Copies of all pleadings and papers served upon Petitioner in the above-entitled action are filed herewith.

X.

This Petition is filed with this Court within thirty (30) days after Petitioner was served with Plaintiff's Complaint in this matter. Plaintiff's Complaint is the "first paper" from which Petitioner could ascertain that the amount in controversy in this action exceeds \$75,000, as Plaintiff seeks past general damages in excess of \$50,000, plus future general damages, past medical expenses, future medical expenses, lost earnings, a loss of earning capacity and claims of "severe, grave disability". See 28 U.S.C. § 1446(b); see also 28 U.S.C. § 1332(a); see also Luckett v. Delta Airlines, Inc.,171 F.3d 295, 298 (5th Cir. 1999) (holding that it was facially apparent from plaintiff's Complaint that the claim exceeded \$75,000 where plaintiff alleged property damage, travel expenses, an emergency ambulance trip, a six-day hospital stay, pain and suffering, humiliation and a temporary inability to do housework); see White v. FCI USA, Inc., 319 F.3d 672, 674 (5th Cir. 2003) (holding that it was facially apparent that plaintiff's wrongful termination claim exceeded \$75,000 based on her lengthy list of compensatory and punitive damages combined with a claim for attorney fees in her Complaint); see also Crum v. Circus Circus Enters., 231 F.3d 1129, 1131 (9th Cir. 2000) (reversing dismissal for lack of subject matter jurisdiction, relying in part on estimated future medical expenses to determine the amount in controversy).

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**PRAYER** WHEREFORE, Petitioner WAL-MART STORES, INC. prays that the above-entitled action be removed from the Eighth Judicial District Court in and for Clark County, Nevada, to this Court. DATED this 10th day of April, 2013. PHILLIPS, SPALLAS & ANGSTADT LLC /s/ Brenda Entzminger Brenda Entzminger Nevada Bar No. 9800 504 South Ninth Street Las Vegas, Nevada 89101 (702) 938-1510 Attorneys for Defendant WAL-MART STORES, Inc. 

1	AFFIDAVIT OF BRENDA H. ENTZMINGER			
2	STATE OF NEVADA )			
3	COUNTY OF CLARK ) ss.			
4	BRENDA ENTZMINGER first being duly sworn, deposes and states as follows:			
5	1. I am an attorney, duly licensed and authorized to practice law within the courts of the			
6	State of Nevada.			
7	2. I am an Associate in the law firm of PHILLIPS, SPALLAS & ANGSTADT LLC,			
8	representing Petitioner WAL-MART STORES, Inc., in the case of <i>Melissa Strawder-McCurry v. Wal-</i>			
9				
10	Mart Stores, Inc., et al., Clark County District Court Case No. A-13-673600-C, filed in Department			
11	No. XVIII of the Eighth Judicial District Court, in and for Clark County, Nevada. I have prepared and			
12	read the foregoing Petition For Removal and know the matters set forth to be true and correct to the			
13	best of my knowledge and belief.			
14	3. Petitioner WAL-MART STORES, Inc. is an Arkansas corporation with it headquarters			
15	in the State of Arkansas, and is therefore a citizen of the State of Arkansas.			
16	4. Petitioner is informed, believes, and thereon alleges that Plaintiff Melissa McCurry is,			
17 18	and was at all times relevant herein, a citizen of the State of Nevada.			
19				
20	5. On April 10, 2013, I caused to be filed with the County Clerk of the Eighth Judicial			
21	District Court, in and for Clark County, Nevada, a Notice Of Removal To Federal Court, seeking			
22	removal of the above-mentioned action to the United States District Court, District of Nevada,			
23	together with a copy of the Petition For Removal (attached thereto as Exhibit A, with all exhibits			
24	thereto, including Plaintiff's Complaint, which is the first paper from which removability may be			
25	ascertained) by depositing such copies with the Deputy Clerk in the County Clerk's Office, Clark			
26	County Courthouse, 200 Lewis Avenue, Las Vegas, Nevada 89101.			
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## **CERTIFICATE OF SERVICE**

I hereby certify that on the <u>10th</u> day of April, 2013, I served a true and correct copy of the foregoing, **DEFENDANT WAL-MART STORES, INC.'S PETITION FOR REMOVAL [JURY DEMAND]**, by U.S. Mail, in a sealed envelope, first-class postage fully prepaid, addressed to the following counsel of record, at the address listed below:

ATTORNEY OF RECORD	TELEPHONE/FAX	PARTY
Janet Markley	Telephone: (702) 294-6529	Plaintiff
Law Offices of Janet Markley		
1000 Nevada Way, #102		
Boulder City, Nevada 89005		

/s/ Ivana Aguayo

An Employee of PHILLIPS, SPALLAS & ANGSTADT LLC